



## Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 24, 2013

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**Title**

Subordinate Judicial Officers: Allocation of Conversions for Fiscal Year 2013–2014

**Agenda Item Type**

Action Required

**Effective Date**

October 24, 2013

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

September 12, 2013

**Recommended by**

Curt Child, Chief Operating Officer  
Judicial and Court Operations Services Division

**Contact**

David Smith, 415-865-7696

Chad Finke, Director

Court Operations Special Services Office

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### Executive Summary

The Administrative Office of the Courts (AOC) recommends that the Judicial Council (JC) approve a modification to the allocation schedule for Subordinate Judicial Officer (SJO) conversions authorized under Government Code Section 69615(c)(1)(A). The modification will allow the Superior Court of Orange County to convert a second vacant SJO position to a judgeship in fiscal year (FY) 2013–2014. The request for this modification was provisionally approved by the Executive and Planning Committee (E&P) pending JC confirmation and will facilitate the timely implementation of SJO conversion policy.

### Recommendation

The AOC recommends that the Judicial Council approve the modification of the allocation schedule for FY 2013–2014 to increase the allocation of conversions of vacant SJO positions in the Superior Court of Orange County from one to two positions by transferring one conversion from one of the other allocation groups.

## Previous Council Action

The 2002 report of the Subordinate Judicial Officer Working Group led the Judicial Council to sponsor legislation to restore an appropriate balance between judges and SJOs in the trial courts. The 2002 report found that many courts had created SJO positions out of necessity in response to a dearth in the creation of new judgeships during the 1980s and 1990s. As a result, many SJOs were working as temporary judges. This imbalance between judges and SJOs was especially critical in the area of family and juvenile law.<sup>1</sup>

In 2007, the Judicial Council approved a methodology for evaluating the workload appropriate to SJOs relative to the number of SJOs working in the courts. In the same year, the Legislature passed Assembly Bill 159, which adopted the Judicial Council's methodology. This action resulted in a list of 25 courts in which a total of 162 SJO positions would be converted. Government Code section 69615(c)(1)(A) allows for the annual conversion of up to 16 SJO vacancies upon authorization by the Legislature in courts identified by the Judicial Council as having SJOs in excess of the workload appropriate to SJOs.<sup>2</sup>

Subsequent council action established and refined guidelines for expediting the conversion of SJO vacancies. These guidelines included:

- The adoption of four trial court allocation groups and a schedule that distributes the 16 annual SJO conversions across these groups in numbers that are proportional to the total number of conversions for which the groups are eligible;
- The delegation of authority to the Executive & Planning (E&P) Committee for confirming SJO conversions;
- The establishment of guidelines for courts to notify the AOC of SJO vacancies and timelines for the redistribution of SJO conversions across the allocation groups; and
- The establishment of criteria for E&P to use in evaluating and granting requests by courts to exempt SJO vacancies from conversion<sup>3</sup>;

With the exception of fiscal year 2012–2013, all 16 annual conversions for which the trial courts have been eligible have been converted since the inception of the program in 2007. In FY 2011–2012, an additional 4 SJO positions were converted to judgeships under the provisions of Senate Bill 405, Stats. 2011, ch. 705, which allowed E&P to review and approve requests for the conversion of up to 10 additional SJO positions that courts have committed to family and juvenile assignments previously presided over by SJOs. To date, a total of 105 SJO vacancies have been approved for

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<sup>1</sup> Judicial Council of Cal., Subordinate Judicial Officer Working Group Rep., *Subordinate Judicial Officers: Duties and Titles* (July 2002), [www.courts.ca.gov/documents/sjowgfinal.pdf](http://www.courts.ca.gov/documents/sjowgfinal.pdf).

<sup>2</sup> Office of Court Research Report to the Judicial Council, *Update of the Judicial Workload Assessment and New Methodology for Selecting Courts with Subordinate Judicial Officers for Conversion to Judgeships* (Feb. 14, 2007), <http://www.courts.ca.gov/documents/022307item9.pdf>.

<sup>3</sup> Office of Court Research Report to the Judicial Council, *Proposal to modify Subordinate Judicial Officer Conversion Policy* (April 14, 2009), <http://www.courts.ca.gov/documents/042409itemh.pdf>.

conversion to judgeships with judges appointed and currently sitting in 89 of the converted positions. In the current fiscal year 9 positions have been fully confirmed for conversion by E&P.

### Rationale for Recommendation

The table below shows the allocation schedule adopted in 2007 by the Judicial Council. In the case of the Superior Court of Orange County, the total allocation of 14 SJO conversions can be completed during the current fiscal year (FY 2013–2014) if the transfer of one SJO conversion is granted. This allows for the completion of the conversion process in the Superior Court of Orange County somewhat ahead of the anticipated timeframe of 10 years.<sup>4</sup>

To accommodate the additional conversion request by the Superior Court of Orange County, an SJO position will need to be transferred from another allocation group. In August 2012, the Judicial Council authorized a similar transfer from one allocation group to another.

The group that can most easily accommodate the transfer of a position is the group furthest along in the conversion of its positions, currently Allocation Group 4. To date, almost three fourths of the positions eligible for conversion have been converted or approved for conversion in Allocation Group 4 (23 of 31 positions). Slightly more than two thirds have been converted in Allocation Group 3 (26 of 39 positions), and a little more than half of the positions in Allocation Group 1 (44 of 78 positions) have been converted. Further, all of the positions for which Allocation Group 1 is eligible in FY 2013-14 have already previously approved for conversion by E&P, leaving no positions in this group to transfer in the current fiscal year.

Therefore, AOC staff recommend that a single position be transferred from Allocation Group 4 to the Superior Court of Orange County for FY 2013–2014 as reflected in the table below.

<b>Allocation Groups for SJO Conversions</b>	<b>Annual Allocation of Conversions</b>	<b>Recommended Allocation for Fiscal Year 2013–14</b>	<b>Total Conversions to Date</b>
<b>Group 1:</b> Los Angeles	7	7	44
<b>Group 2:</b> Orange	1	2	13
<b>Group 3:</b> Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4	4	26
<b>Group 4:</b> El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, Yolo	4	3	23

<sup>4</sup> Because fractional positions cannot be converted, the annual number of positions allocated to a court with a large number of conversions will not align precisely with the total number of conversions for which a court is eligible.

## **Comments, Alternatives Considered, and Policy Implications**

This proposal has not gone out for comment. The council could choose not to reallocate an SJO conversion from another court group to the Superior Court of Orange County, or it could choose to allocate an SJO conversion from a group other than Allocation Group 4.

## **Implementation Requirements, Costs, and Operational Impacts**

There have been minimal implementation costs to the trial courts that have converted SJO positions. On appointment of a new judge to sit in a converted position, funding equal to the judge's estimated compensation—which includes salary and benefits but does not include retirement—is removed from the trial court's allocation, which previously funded the SJO position.

Because the amount transferred to Program 45.25 does not include funding for retirement, the amount of funds transferred out of the trial courts' budgets has been *less than* the total salary, benefits, and retirement previously budgeted for SJO positions in all but two superior courts. This has frequently left courts with few if any new costs and in some cases a positive balance following the appointment of a new judge.

Minimal implementation costs have been incurred by both the trial courts and the AOC in personnel costs related to identifying positions for conversion, communication between the courts and the AOC, and coordinating the confirmation of conversions.

At 16 conversions per year somewhat less than four more years would be needed to complete the conversion of the remaining SJO positions that are eligible for conversion.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The conversion of vacant SJO positions to judgeships serves Goal Four of the Strategic and Operational Plans: Quality of Justice and Service to the Public. Within this goal, the conversion of eligible SJO positions is consistent with Objective 1 of both plans: Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.

## **Attachments**

1. Attachment A: July 11, 2013, letter from the Hon. Thomas J. Borris, Presiding Judge of the Superior Court of Orange County; to Mr. Dag MacLeod, AOC Manager of the Office of Court Research, Court Operations Special Services Office. Subject: Request for conversion of vacant SJO positions.
2. Attachment B: August 23, 2013, letter from Ms. Jody Patel, AOC Chief of Staff; to the Hon. Thomas J. Borris, Presiding Judge of the Superior Court of Orange County. Subject: Notification of E&P action on the request for the conversion of vacant SJO positions.



CHAMBERS OF  
THOMAS J. BORRIS  
PRESIDING JUDGE

# Superior Court of California County of Orange

July 11, 2013

CENTRAL JUSTICE CENTER  
700 CIVIC CENTER DRIVE WEST  
SANTA ANA, CA 92701-4045  
(657) 622-7020

Mr. Dag Macleod  
Manager, Office of Court Research  
Judicial Council of California  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

Re: Request conversion of two subordinate judicial officer positions to judgeships pursuant to GC 69615(c)(1)(A).

Dear Mr. Macleod:

The Superior Court in and for Orange County hereby requests conversion of two vacant subordinate judicial officer positions to judgeships immediately on approval by the E&P committee.

The budget bill for FY 2012-13 authorized conversion of 16 subordinate judicial officer positions (2012 Stats., Chap. 21, section 2.00, item 0250-101-0932, provision 10, (AB1464). The Superior Court, County of Orange was allocated 14 subordinate judicial officer conversions by the Judicial Council. A total of 12 positions have been converted to date, leaving two more positions eligible for conversion.

The Court currently has two vacant commissioner positions. Both positions became vacant upon the retirements of Richard G. Vogl on March 28, 2013 and Lyle Robertson on June 29, 2013.

In the interim, and until the Governor should appoint judges to these positions, the Court intends to utilize the assigned judge program to cover the positions.

If you have any questions or need further information, please contact my office at 657.622.7011.

Respectfully,

Thomas J. Borris  
Presiding Judge

TJB:cr



**Judicial Council of California**  
ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL COUNCIL AND COURT LEADERSHIP SERVICES DIVISION

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TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

STEVEN JAHR  
*Administrative Director of the Courts*

JODY PATEL  
*Chief of Staff*

August 23, 2013

Hon. Thomas James Borris  
Presiding Judge of the Superior Court of California,  
County of Orange  
700 Civic Center Drive West  
Santa Ana, California 92701

Re: Executive and Planning Committee Action of August 13, 2013, Regarding Subordinate  
Judicial Officer Conversions

Dear Presiding Judge Borris:

On August 13, 2013, the Judicial Council's Executive and Planning Committee (E&P) met and took action on the Superior Court of California, County of Orange's request, dated July 11, 2013, to convert two vacant subordinate judicial officer positions to judgeships. I am writing to provide a status in response to the court's request.

For the vacancy attributed to Commissioner Richard G. Vogl's retirement on March 28, 2013, E&P approved converting the position to a judgeship. Conversion for this position is effective as of the date of the committee's action. The position is eligible to be temporarily filled until a judge is named and sworn in to the position.

The committee provisionally approved conversion of the second vacancy, attributed to Commissioner Lyle Robertson's retirement on June 29, 2013. Before this position is finally eligible for conversion, the Judicial Council must authorize reassignment of a conversion from another allocation group to the Superior Court of Orange County. Once the council has taken action, I will provide you with a written confirmation of that approval and the effective date of that conversion.

Hon. Thomas James Borris

August 23, 2013

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Please let me know if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody Patel". The signature is fluid and cursive, with the first name "Jody" being more prominent and the last name "Patel" following in a similar style.

Jody Patel  
Chief of Staff  
Administrative Office of the Courts

JP/NC

cc: Hon. Douglas P. Miller, Chair, E&P  
Mr. Alan Carlson, Chief Executive Officer, Superior Court of Orange County  
Mr. Chad Finke, Director, Administrative Office of the Courts (AOC) Court Operations  
Special Services Office  
Mr. Cory Jaspersen, Director, AOC Office of Governmental Affairs